



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Request for Council authorization/appropriation to continue retention of Dufour & Associates for assistance with DBCP regulations.

MEETING DATE: October 21, 1992

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council consideration/approval of continued retention of Dufour & Associates.

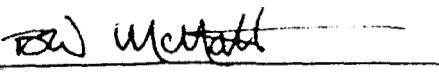
BACKGROUND: At the meeting of April 15, 1992, the City Council authorized retention of the firm of Dufour & Associates to assist in seeking administrative remedies in handling the City's DBCP problems. As pointed out at that time, it appears to be in the City's best interest to pursue both the suit for damages being handled by the law firm of Miller & Rolfe, and also this administrative approach to deal with the situation. The Council approved retaining Dufour & Associates, with expenditures not to exceed \$10,000.

Since April, Mr. Dufour has worked extensively with the State Department of Health Services (DHS) and other regulatory agencies as well as the Mayor's Task Force on DBCP. It appeared we were making excellent progress in getting DHS to agree to certain interpretations of applicable regulations which might have alleviated some or all of the problems. However, DHS officials a few weeks ago in an apparent reversal informed us the regulatory language did not permit them to do as we requested.

It appears there may be other avenues, however, which Mr. Dufour's firm could help us explore with regulatory agencies. These would include exemption or waivers, as well as the possibility of special legislation. Since expenditures are now approaching the maximum \$10,000 figure authorized in April, it is requested that the Council approve and appropriate an additional \$10,000 for Dufour & Associates to carry forward efforts for an administrative solution, plus an additional \$1,000 to cover associated expenses.

FUNDING: Water Operating Reserve.

Respectfully submitted,


Bob McNatt
City Attorney

APPROVED _____

DBCPC/TXTA.01V

THOMAS A. PETERSON
City Manager

rec'd 11/10/92

DUFOUR & ASSOCIATES

ATTORNEYS AT LAW

JAMES T. DUFOUR

KEVIN J. BURDICK

MICHAEL R. DRAYTON

KEN DAVIS,
GOVERNMENT RELATIONS CONSULTANT

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October 13, 1992

OCT 14 1992

City Attorney's Office

VIA FEDERAL EXPRESS

Mr Bob McNatt
City Attorney
CITY OF LODI
221 W. Pine Street
Lodi, CA 95240

Re: Continuation of Retainer to Provide Counsel and Representation
of the city on the DBCP Issue

Dear Mr. McNatt:

As we discussed, the current authorized retainer of \$10,000, plus expenses has been exhausted. In fact, my records indicated the following:

\$6,736.25	Billed and Paid through 8/92
<u>\$3,364.30</u>	Currently Billable through 8/31/92
\$10,155	TOTAL

In addition, we have expended some additional professional service hours in the current billing period.

As you know, our intense efforts especially in August in support of the Public Works Department nearly succeeded in obtaining an amended permit which would have resolved the DBCP issue for the City in an extremely expeditious manner.

Furthermore, my involvement with the Mayor's special committee on DBCP required attendance at approximately bi-monthly meetings which were an unanticipated professional service.

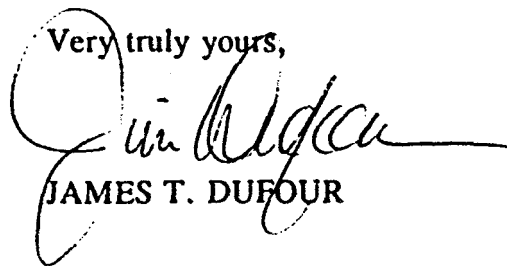
Therefore, as the City moves forward **to** consider the alternative remedies of legislation, exemptions, and variance requests, it will be necessary to reauthorize our retainer for additional professional services.

I believe it would be most appropriate **to** extend the authorization for an additional \$10,000 plus **\$1,000** for reasonable ordinary fees and expenses for a total of \$11,000 commencing on September 1, 1992. Based on anticipated level of effort, this retainer reauthorization should provide a consistent level of support **to** the Mayor's committee and to the Public **Works** Department through April 1, 1993.

If **an** unanticipated issue arises, like extensive preparation for a hearing on an exemption or variance, or if the legislation route requires a more intensive commitment of resources, this authorization may have to be reviewed in light of these **new** circumstances.

I am looking forward **to** continuing to work with **you** and the City on this important issue.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jim Dufour", written over the typed name "JAMES T. DUFOUR".

JAMES T. DUFOUR

JTD:dmg

cc: Jack Ronsko, City of Lodi

#28

CITY OF LODI
SPECIAL ALLOCATION REQUEST

TO: Finance Director

DATE: October 21, 1992,

FROM: City Clerk

PROJECT NUMBER: 18.0 - 453.02-323

Request is made for funds to accomplish the following project which was not included in the current budget:

<u>Description of Project</u>	<u>Estimated Cost</u>
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Appropriation to continue retention of Dufour and Associates for assistance with DBCP regulations

Funding: Water Operating Reserve

- \$11,000

(If you need more space, use additional sheet and attach to this form)

Date of Approval - October 21, 1992 Amount Approved - \$11,000

Council _____XXXXX

City Manager _____

FUND OR ACCOUNT TO BE CHARGED

Current Budget \$ _____ Prior Year Reserve \$ _____

Contingent Fund \$ _____ General Fund Surplus \$ _____

Capital Outlay Reserve \$ _____ Gas Tax Fund \$ _____

Utility Outlay Reserve \$ _____ Other (Election) \$ 18.0 - 69.1

Hotel/Motel Tax Reserve - \$ _____

General Fund Operating Reserve \$ _____


Dixon Flynn,
Finance Director


Alice M. Reimche
City Clerk

Submit this form in duplicate to the Finance Director. Distribution after approval will be as follows: 1) Originating Department 2) Finance Department

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